

RECEIVED
Form 12

FORM 12. Informal Brief (District Court, Court of International Trade, and Court of Federal Claims Cases)

FLB 7/7/2009

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
*United States Court of Appeals
of the Federal Circuit*

Taylor

v. USPO

No. 2009-1133

INFORMAL BRIEF OF APPELLANT

Read the Guide for Pro Se Petitioners and Appellants before completing this form. Attach a copy of the final decision or order of the trial court. Answer the following questions as best you can. Your answers should refer to the decision or order you are appealing where possible. Use extra sheets if needed.

1. Have you ever had another case in this court? Yes No If so, state the name and number of each case.

2. Did the trial court incorrectly decide or fail to take into account any facts? Yes No If so, what facts? (Refer to paragraph 7 of the Guide.)

Plaintiff never asked the court to reinstate the patent without \$1030. He only asked for \$1030 with interest and redress for their negligence as to the expiration of the patent for lack of payment while keeping the money and not informing the plaintiff as to their actions.

3. Did the trial court apply the wrong law? Yes No If so, what law should be applied?

The Constitution prohibits the taking of property, life, or liberty without due process. \$1030 plus the patent protection was taken without informing plaintiff. Had they returned the \$1030, Plaintiff would have known that something was wrong with the Patent. USPO took over 3 years to inform Plaintiff of their actions.

4. Did the trial court fail to consider important grounds for relief? Yes No If so, what grounds?

Trial court misrepresented Plaintiff's statements. Plaintiff never stated to have sent the fee late by 5 days, but even if he had, the USPO broke the law by cashing and keeping the money while expiring the patent for lack of payment 8 years later and they have not return the \$1030 they took.

See attached Sheets 1 & 2

FORM 12. Informal Brief (District Court, Court of International Trade, and Court of Federal Claims Cases) (contin-

5. Are there other reasons why the trial court's decision was wrong? Yes _____ No If so, what reasons?

The First Amendment guarantees the right to be heard. The court feels that without it you, petitioner cannot be heard at AUSPO. Since this plaintiff is a pauper, he must waive his money & invention good bye. The AUSPO is not above the A.S Constitution.

6. What action do you want the court to take in this case?

To protect plaintiff constitutional rights and to order this case to jury trial as demanded by the complaint.

7. Do you want to argue before the court in person? Yes _____ No If yes, what are the reasons why argument will aid the court? (Refer to paragraph 15 of the Guide.)

If the court needs plaintiff to clear out any issue, and if the court can provide transportation. Plaintiff is a pauper.

8. Do you intend to represent yourself? Yes _____ No If you have not filed an Entry of Appearance, indicate your full name, address, and telephone number.

Jorge Taylor

*646 ST. Nicholas Ave # 102 N.Y. NY 10030
C 46 415 8606 or C 46 302 9726*

9. I certify that a copy of this brief and any attachments was sent to: *Raymond T. Chen*, the attorney for appellee, at the following address: *US District Court, Southern District of New York*. (Address is found on the Entry of Appearance served on you by the attorney for the appellee. If you do not send a copy of this brief to the appellee, the court will not file the brief.)

1-30-09

Date

Jorge Taylor
Appellant's signature

In addition to mailing a copy to the attorney for the appellee, mail an original and three copies of this informal brief and attachments to:

Clerk of Court
 United States Court of Appeals for the Federal Circuit
 717 Madison Place, NW
 Washington, DC 20439

The Hon. Harold Baer based his decision to dismiss Plaintiff's complaint on several errors of facts and on un-sworn statements from the United States Patent and Trademark Office ("USPTO"). The Plaintiff never (at any time) stated in his complaint or anywhere else that: ..."Plaintiff alleges that he submitted \$1,030 of the \$1,040 maintenance fee on January 17, 2001, allegedly five days after the deadline for payment of the maintenance fee with surcharge. See id. At Exh. 1c at 1, 2..." Said error of fact was used by the Court at least twice for justifying the petition dismissal. See page 2 of the Court order to dismiss. Again, at page 4..."Furthermore, plaintiff also filed his 2001 maintenance fee five days after the end of the time that payment with surcharge was permissible. Compl. At Exh. 1e at 2. Therefore, (1) because plaintiff paid only a portion of the maintenance fee, (2) he paid it five days late, and (3) he failed to pay a petition fee, his claims must be dismissed..."

Now, as to page 4 Court conclusion #(1) Plaintiff paid the fee he was told to pay by the ("USPTO") \$1030 (why would plaintiff send a different amount? He was awarded on Jan 5, 2001, \$92,671.71 by the State of New York). #(2) He paid said fee on time, Jan. 12, 2001. And #3 , No law in this land requires for an inventor to request a reinstatement of patent in order to have his money refunded. Why should an inventor have to pay \$200 in order to get a refund, and the time for filing such a petition expired many moons ago:

See 37 C.F.R. 1.366 and 1.377

1.366 Submission of maintenance fee, provides that : "...the office may apply the payment to the patent identified by patent in the payment or may return the payment" In this case, the USPTO did neither. The money was not applied to patent nor returned to sender with a statement of facts.

1.377 Review of decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of patent, further provides that:

"(a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the commissioner to accept and record the maintenance fee." How can any patentee exercise this option if he is never confronted with the refusal to accept and record the maintenance fee by the USPTO? Because of the serious errors committed by the lower Court, the plaintiff herein prays that this Hon. Court grants him this

Sheet 2

and any other relief this Hon. Court may deem appropriate including the assistance of counsel. Plaintiff suffers from a mental disability (paranoid schizophrenia), and his medication (Risperidone) prevents him from being able to concentrate. Therefore, in order for him to concentrate in his case, he must stop taking his medication. Before plaintiff was diagnosed and medicated, he spent half his life in the penitentiary for very serious offenses. Since he has been medicated, he has never been in any type of problems. His psychiatrist is against him not taking his medication and so is the residence he resides at (Project Renewal). Please, give this plaintiff a fair chance in our Court System. Thanks. (1-30-09)

PRO SE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK Moynihan UNITED STATES COURTHOUSE
500 PEARL STREET, ROOM 230
NEW YORK, NEW YORK 10007

J. MICHAEL McMAHON
CLERK OF COURT

[Signature]
Date

Re: *Taylor v. U.S. Patent & Trademark Office* No. *Civ. 88-148*

Dear Litigant:

Enclosed is a copy of the judgment entered in your case.

Should you disagree with the decision of the district court, you may request that a higher federal court review your case by filing an appeal. You may appeal your case from the Southern District of New York to the United States Court of Appeals for the Second Circuit by filing a "Notice of Appeal" with the *Pro Se* Office. Pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure your notice of appeal must be filed within thirty (30) days of the date that the judgment is entered onto the Court's docket, or sixty (60) days if the United States or an officer or agency of the United States is a party.

If you wish to appeal the judgment but you are unable to file your notice of appeal within the required time, you may make a motion for extension of time in accordance with the provisions of Rule 4(a)(5) of the Federal Rules of Appellate Procedure. That rule requires that you show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the *Pro Se* Office no later than sixty (60) days from the date of entry of the judgment, or ninety (90) days if the United States or an officer or agency of the United States is a party.

Please note that the notice of appeal is a one-page document containing your name, a description of the final order or judgment (or part thereof) being appealed, and the name of the court to which the appeal is taken (the Second Circuit). The notice of appeal does not include your reasons or grounds for the appeal. Once your appeal is processed by the district court, your notice of appeal will be sent to the Court of Appeals and a Court of Appeals docket number will be assigned to your case. Once you receive a docket number from the Court of Appeals, all further questions regarding your appeal must be directed to that court.

The filing fee for a notice of appeal is \$455 payable in cash, by credit card, or by bank check, certified check, or money order, made payable to "Clerk of Court, S.D.N.Y." No personal checks are accepted. If you are unable to pay the \$455 filing fee, you may request that the Judge grant you *in forma pauperis* status and waive the appeal fee. You make this request by submitting an application to proceed *in forma pauperis* on appeal with your notice of appeal to the *Pro Se* Office.

J. MICHAEL McMAHON
Clerk of Court

By *[Signature]*
Deputy Clerk

United States Court of Appeals for the Federal Circuit

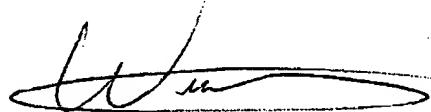
Taylor v USPO #2009-1133

Affidavit of Service

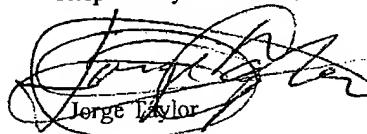
I, Jorge Taylor, duly sworn depose and say under penalty of perjury that on this 30 day of January 2009 I have mailed via United State Post Office an Appeal #2009-1133 with copies thereof to the United States Court of Appeals for the Federal Circuit and to Raimond T Chen, US District Court, Southern District of New York.

Sworn to this 30 day of January of 2009

William Minier
Notary Public, State of New York
No. 01MI6116576
Qualified in New York County
Commission Expires Oct. 4 20 / 2



Respectfully Submitted,


Jorge Taylor

646 St. Nicholas Ave. #102

N Y C New YORK 10030

CC: Raimond T. Chen